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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/815,422	03/22/2001	Satoru Suzuki	09812.0161-00000	4553

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EXAMINER

COLBERT, ELLA

ART UNIT	PAPER NUMBER
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3694

MAIL DATE	DELIVERY MODE
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10/17/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/815,422	<b>Applicant(s)</b> SUZUKI ET AL.	
	<b>Examiner</b> Ella Colbert	<b>Art Unit</b> 3694	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 30-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 30-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Claims 1-7 and 30-33 are pending. Claims 1, 30, and 32 have been amended and claims 8-29 and 34-43 have been cancelled in this communication filed 7/18/07 entered as Response after Non-Final Action.
2. The objection to the title has been overcome by Applicant's amendment to the title and is hereby withdrawn.
3. The Objection to the title has been overcome by Applicants' amendment to the title and is hereby withdrawn.
4. The objection to claims 1, 30, and 32 has been overcome by Applicants' amendment to the claims and is hereby withdrawn.
5. The provisional double patenting rejection is hereby withdrawn in view of Applicants' amendments and cancellation of claims in the instant application and arguments relating to 11/390,207, 11/390,208, 11/390,375, 11/390,376, 11/390,383, 11/390,453, and 11/390,454.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. Claims 1-7 and 30-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 6,347,136) Horan in view of (US 5,956,697).

Claim 1. Horan discloses An electronic apparatus comprising: operation inputting means for designating one of a plurality of functions including playback, recording, fast forwarding, and rewinding (col. 3, lines 35-60); and function executing means for executing the functions (col. 3, lines 35-60).

Horan failed to disclose, measuring means for measuring the time during which each of said functions has been executed by said function executing means; and chargeable amount computing means for computing a chargeable amount based on the execution time measured by said measuring means regarding each of said functions. Usui discloses, measuring means for measuring the time during which each of said functions has been executed by said function executing means (col. 4, lines 25-55); and chargeable amount computing means for computing a chargeable amount based on the execution time measured by said measuring means regarding each of said functions (col. 5, lines 9-51). In treatment of the last limitation quoted above regarding a chargeable amount computing means computes said chargeable amount based on the execution time regarding each of said functions and through weighting on a function-by-function basis. It would have been obvious to one having ordinary skill in the art to modify Horan as taught by Usui to know how much time has been spend using each function and to know the amount of expected payment based on the charge for each function.

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Claim 2. Horan failed to disclose, An electronic apparatus according to claim 1, wherein said computing means computes said amount of charge based on the execution time regarding each of said functions and through weighting on a function-by-function basis.

Usui discloses, An electronic apparatus according to claim 1, wherein said computing means computes said amount of charge based on the execution time regarding each of said functions and through weighting on a function-by-function basis (col. 2, lines 15-51). It would have been obvious to one having ordinary skill in the art to modify Horan as taught by Usui to calculate the fee for access according to the length of time each device is connected to the client or other network device.

Claim 3. Horan failed to disclose, An electronic apparatus according to claim 2, wherein said function executing means is controlled by a microprocessor, and wherein said computing means computes said amount of charge based on the execution time regarding each of said functions and through weighting by a load factor of said microprocessor in effect during execution of each of said functions. Usui discloses, An electronic apparatus according to claim 2, wherein said function executing means is controlled by a microprocessor, and wherein said computing means computes said amount of charge based on the execution time regarding each of said functions and through weighting by a load factor of said microprocessor in effect during execution of each of said functions (col. 3, line 61-col. 4, line 10). It would have been obvious to one having ordinary skill in the art to modify Horan as taught by Usui to have a microprocessor for loading the devices and be able to charge for the execution of each device by an account charging unit.

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Claim 4. Horan discloses An electronic apparatus according to claim 2, wherein said chargeable amount computing means computes said chargeable time based on different weighting factors set for different apparatuses (col. 3, line 61-col. 4, line 15).

Claim 5. Horan discloses An apparatus according to claim further comprising: storing means for storing execution times for each of said functions measured by said measuring means (col. 4, lines 16-57); and transmitting means for transmitting said execution times from said storing means to an external entity for settlement of charges (col. 6, lines 24-36).

Claim 6. Horan failed to disclose, An electronic apparatus according to claim 1, further comprising: storing means for storing a chargeable time representing the amount of charge computed by said computing means; and transmitting means for transmitting said chargeable time from said storing means to an external entity for settlement of charges. Usui discloses, An electronic apparatus according to claim 1, further comprising: storing means for storing a chargeable time representing the amount of charge computed by said computing means (col. 4, lines 5-10 and col. 5, lines 16-53); and transmitting means for transmitting said chargeable time from said storing means to an external entity for settlement of charges (col. 3, lines 26-49). It would have been obvious to one having ordinary skill in the art to modify Horan as taught by Usui to have a fee-charging server that checks the access time of each device and stores the amount of time for later reconciliation of the amount of the charge (fee).

Claim 7. Horan failed to disclose, An electronic apparatus according to claim 1, further comprising: storing means for storing a usable time of said apparatus; and

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settling means for subtracting a chargeable time representing the chargeable amount computed by said chargeable amount computing means, stored in said storing means, from said usable time stored in said storing means. Usui discloses, An electronic apparatus according to claim 1, further comprising: storing means for storing a usable time of said apparatus (col. 2, lines 24-43 –Summary of Invention); and settling means for subtracting a chargeable time representing the chargeable amount computed by said chargeable amount computing means, stored in said storing means, from said usable time stored in said storing means (col. 1, lines 49-67-Background of the Invention). It would have been obvious to one having ordinary skill in the art to modify Horan as taught by Usui to have the capability to settle the account by performing a mathematical process to arrive at an account settlement for each function's usage.

Claim 30. This independent claim is rejected for the similar rationale as given above for claims 1 and 6.

Claim 31. This dependent claim is rejected for the similar rationale as given above for claims 5 and 6.

Claim 32. This dependent claim is rejected for the similar rationale as given above for claims 1-3.

Claim 33. This dependent claim is rejected for the similar rationale as given above for claim 6.

### ***Response to Arguments***

8. Issue No. 1: Applicants' argue: The prior art cited by the Examiner, Horan and Usui, does not teach or suggest each and every element of claims 1-7 and 30-33, a

*prima facie* case of obviousness has therefore not been established and Horan does not teach or suggest every element of the claimed invention has been considered but is not persuasive. Response: Applicants' are arguing the amendments to their claims in the present response. "Transmitting keys" is interpreted as "transmitting functions to the electronic apparatus ..., transmits a first function to the electronic apparatus to disable at least one of the plurality of functions ..., and transmits a second function to the electronic apparatus, to enable at least one of the plurality of functions ...". The reference only has to show that one of the functions is capable of being disabled and then enabled once the account is settled.

Issue no. 2: Applicants' argue: Horan is silent regarding any type of charging means, the claimed "management means for transmitting keys (functions) to the electronic apparatus and transmitting a first key (function) "if the amount of charge is not settled" and "transmitting a second key (function) if the amount of charge is settled" has been considered but is not persuasive. Response: Applicants' are arguing the amendments to claims 1, 30, and 32 which were made in this response to the previous office action of April 30, 2007.

Issue no. 3: Applicants' argue: Applicants' find not teaching or suggestion in Usui of transmitting a first key (function) if the amount of the charge is not settled and transmitting a second key (function) if the amount of the charge is settled and does not teach or suggest the claimed combination of elements including, for example, wherein the management means for transmitting keys (functions) to the electronic apparatus, wherein the management means, transmits a first key (function) to the electronic



apparatus to disable at least one of the plurality of functions, including playback, recording, fast forwarding, and rewinding, if the amount of the charge is settled as recited in claim 1 has been considered but is not persuasive. Response: It is interpreted that Horan and Usui disclose and suggest these limitations in claim 1.

Issue no. 4: Applicants' argue: Horan and Usui fail to establish a prima facie case of obviousness with respect to claim 1, at least because the references fail to teach each and every element of the claim and claims 2-7 are allowable over McGregor in view of Horan for at least the same reasons as claim 1 has been considered but is not persuasive. Response: It is assumed that every reference relies to some extent on the knowledge of persons skilled in the art to complement that which is disclosed therein. Further, the skilled artisan is presumed to know something more about the art than only what is disclosed in the applied reference/references. In other words, the person having ordinary skill in the art has a level of knowledge apart from the content of the references. *In re Bode*, 550 F.2d 656, 660, 193 USPQ 12, 16 (CCPA 1977); *In re Jacoby*, 309 F.2d 513, 516, 135 USPQ 317, 319 (CCPA 1962). A conclusion of obviousness is established "from common knowledge and common sense of the person of ordinary skill in the art without any specific hint or suggestion in a particular reference." *In re Bozek*, 416 F.2d 1385, 1390, 163 USPQ 545, 549 (CCPA 1969). Also see MPEP 2144 entitled "Sources of Rationale Supporting a Rejection Under 35 U.S.C. 103: RATIONALE MAY BE IN A REFERENCE, OR REASONED FROM COMMON KNOWLEDGE IN THE ART, SCIENTIFIC PRINCIPLES, ART – RECOGNIZED EQUIVALENTS, OR LEGAL PRECEDENT."

The Examiner is entitled to give limitations their broadest reasonable interpretation in light of the Specification (see below):

2111 Claim Interpretation; Broadest Reasonable Interpretation [R-1]

>CLAIMS MUST BE GIVEN THEIR BROADEST REASONABLE INTERPRETATION

*During patent examination, the pending claims must be "given the broadest reasonable interpretation consistent with the specification." Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 162 USPQ 541,550-51 (CCPA 1969).<*

### **Conclusion**

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### **Inquiries**

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 571-272-6741.


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The examiner can normally be reached on Monday, Tuesday, and Thursday, 5:30AM-3:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

September 24, 2007

  
ALA COLBERT  
PRIMARY EXAMINER